

ABANDONMENT IN FIRE INSURANCE.

Abandonment in marine insurance is an act at the option of the insured, whereby, in the event of loss under his policy, he is permitted to relinquish to his underwriters all salvage or remnants of the property at risk, or the proceeds thereof, or any claims or benefits arising therefrom, and claim as for a total loss. The damaged property, usually by shipwreck, was in olden times frequently landed in some remote quarter of the world beyond the immediate control of the owner, with limited and dilatory methods of communication, so that the actual value of what salvage there might be was unknown and growing less by delay; and the time at which its value and condition could be ordinarily ascertained was so uncertain that it was the practice for the insured to give the underwriter "notice of abandonment," and make a claim for a total loss. The insured thus parted with all control of the salvage, within the sum of the insurance, to the underwriter, who thenceforward assumed ownership, and disposed of the property as best he could, and not unfrequently this was done to good advantage.

While abandonment, under certain restrictions, may be said to have been co-existent with marine underwriting, the custom is not recognized in the fire branch, where the salvage remains the property and at the risk of the insured, for which, after appraisalment, the insurer gets credit upon the loss to its equivalent sound value, and pays for any deficiency between the salvage and the amount of the insurance. This payment may be made either in cash or by a re-instatement of the property to an amount in value equal to the loss and of equal goodness as to quality. While the ordinary fire insurance policy provides that there shall be no abandonment of damaged goods by the insured, as practised in the marine branch, the principle of abandonment is not only applicable, but is frequently availed of in the fire branch in the form of subrogation. The terms of the policy guarantee indemnity only; this principle of indemnity requiring that the insured shall not be repaid the full value of his interest in the burned portion of his property, and at the same time be permitted to retain such interest or any portion of it; as where the insured may, at the time of the loss, have or hold any claim, mortgage or other security as collateral thereto; or where he may be vested at common law with rights of recovery against other parties. Any other course would militate against the underlying principle of insurance, which is, that under no circumstances must the adjustment of a loss make it profitable to the insured to have losses.

Nevertheless, while the principle of abandonment is not recognized in the fire branch, the insured cannot compel the underwriter to accept the salvage and pay as for a total loss; neither can the underwriter compel the insured to hand over any or all of the remnants; yet it not unfrequently occurs that it becomes to the advantage of the underwriters to take the damaged goods at invoice prices, and pay as for a total loss, as being the most ready and equitable means of reaching the present value of the property at the time of the

settlement. The salvage thus becomes the property of the underwriters, who can dispose of it at their option; and should a profit result from the sale, as not unfrequently happens, such profit inures to the sole benefit of the underwriters, the abandonment operating as a direct sale to them.

The measure of damage differs in the two branches, marine and fire; in the former, unless insured under a valuation, as is most frequently the case, the value of the property at the time of the loss is the cost at the time and place of shipment, without allowance for freight or profit on the venture, though it sometimes happens that an agreed addition has been made to such value, but included in the valuation; while in the fire branch the measure of damage is the cost of reinstating the property at the time of the loss, be the same more or less than the original cost, and hence there can be no abandonment in fire insurance so long as the insurer has the option of reinstatement as conferred by the stipulations of the policy. As Mr. Bunyon, an English lawyer who has written upon insurance, says:

It is one thing to indemnify the insured for injury actually sustained, and quite another to be compelled to become the purchaser of a large amount of damaged merchandise. * * * The attempt to convert insurance companies into speculators in produce, with all the disadvantage of forced sales and combined buyers, was surely never suggested, much less sanctioned by any fair legal construction of the terms of the policy. In any case it is a risk not contemplated by the insurers, and is one for which a fitting rate of premium has yet to be inquired for and found. If the policy is not only to take the risk of damage by fire, but also the chances of falling markets and forced sales, there must be quoted a presumably adequate rate of premium by those who are willing to embark in the experimental business. It is simply the insurance of merchandise from the risk of fire—plus the risks and zigzags of markets.

Abandonment, for reasons above stated, was a necessity from the conditions of trade and commercial conditions in the early days. It was even then held to be "an extreme remedy," to be resorted to only when circumstances would furnish no other means of indemnity to the insured. In the United States there can be no abandonment unless the damage to the property at risk reaches 50 per cent. of its value. And as the facilities for news and for saving wrecked property increase, the old doctrine of abandonment will become more and more modified, until it will eventually assimilate more closely to the system used in the fire branch.

FIRES IN MONTREAL AND NEW YORK.

On the night of Wednesday, the 20th January, Montreal was visited with two serious fires, while on the following day in New York the Spingler Building on Union Square, adjoining the well known store of Tiffany & Co., was completely wrecked by the devouring element. Our friend Dogberry remarks that "comparisons are odorous," and we perhaps should not have thought it worth while to compare the \$100,000 fire at the corner of Victoria Square and Craig Street with that which destroyed half a million in New York the following day, had we not observed that a native of the latter city was reported to have said in his wisdom, that if Montreal had possessed a water tower the above fire